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FIFTY-SEVENTH LEGISLATURE

THIRTY-NINTH LEGISLATIVE DAY
THURSDAY, FEBRUARY 19, 2004

Senate Chamber

President Risch called the Senate to order at 10:15 a.m.

Roll call showed all members present except Senators Darrington and Kennedy, absent and formally excused by the Chair; and Senators Burkett, Calabretta, Malepeai, Schroeder, and Sorensen, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Dian Walton, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 18, 2004, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Calabretta, Malepeai, and Sorensen were recorded present at this order of business.

February 18, 2004

The JUDICIARY AND RULES Committee reports that **S 1223** has been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1223** and ordered it transmitted to the House for the signature of the Speaker.

February 18, 2004

The JUDICIARY AND RULES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Mike Matthews to the Commission on Pardons and Parole, term to expire January 1, 2007.

DARRINGTON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 18, 2004

The JUDICIARY AND RULES Committee reports out **S 1281** with the recommendation that it do pass.

DARRINGTON, Chairman

S 1281 was filed for second reading.

February 18, 2004

The STATE AFFAIRS Committee reports out **S 1266**, **S 1267**, **S 1268**, and **S 1306** with the recommendation that they do pass.

SORENSEN, Chairman

S 1266, **S 1267**, **S 1268**, and **S 1306** were filed for second reading.

February 19, 2004

The HEALTH AND WELFARE Committee reports out **S 1334** with the recommendation that it be referred to the Local Government and Taxation Committee.

BRANDT, Chairman

There being no objection, **S 1334** was re-referred to the Local Government and Taxation Committee.

February 19, 2004

The LOCAL GOVERNMENT AND TAXATION Committee reports out **S 1298**, **H 505**, and **H 506** with the recommendation that they do pass.

BUNDERSON, Chairman

S 1298, **H 505**, and **H 506** were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

February 18, 2004

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have signed today and am transmitting to the Secretary of State the following Senate Bill, to wit:

S 1239

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

Messages from the House

February 18, 2004

Mr. President:

I transmit herewith **H 611**, **H 596**, **H 608**, **H 601**, and **H 610** which have passed the House.

JUKER, Chief Clerk

H 611, **H 596**, **H 608**, **H 601**, and **H 610** were filed for first reading.

February 18, 2004

Mr. President:

I transmit herewith **S 1222** and **S 1214** which have passed the House.

JUKER, Chief Clerk

S 1222 and **S 1214** were referred to the Judiciary and Rules Committee for enrolling.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
House Petitions, Resolutions, and Memorials**

Senators Burkett and Schroeder were recorded present at this order of business.

S 1379**BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO COMMUNICATIONS SECURITY;
AMENDING SECTION 18-6702, IDAHO CODE, TO CLARIFY
THE APPLICABILITY OF CERTAIN PENALTY PROVISIONS.

S 1380**BY STATE AFFAIRS COMMITTEE****AN ACT**

RELATING TO FISH AND GAME; AMENDING SECTION
36-1406, IDAHO CODE, TO PROVIDE THAT
PROSECUTIONS FOR SPECIFIED FISH AND GAME
MISDEMEANOR OFFENSES MUST BE COMMENCED
WITHIN FIVE YEARS AFTER COMMISSION OF THE
OFFENSES.

S 1379 and **S 1380** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 611, by Environmental Affairs Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 596, by State Affairs Committee, was introduced, read the first time at length, and referred to the Education Committee.

H 608, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

H 601 and **H 610**, by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1255, by Education Committee, was read the second time at length and filed for third reading.

S 1273, by Transportation Committee, was read the second time at length and filed for third reading.

H 546, **H 547**, and **H 548**, by Agricultural Affairs Committee, were read the second time at length and filed for third reading.

S 1377, by Finance Committee, was read the second time at length and filed for third reading.

H 533, by State Affairs Committee, was read the second time at length and filed for third reading.

H 484, **H 485**, **H 483**, **H 486**, and **H 498**, by Business Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

The President called President Pro Tempore Geddes to the Chair.

S 1244 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Darrington, Kennedy. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1244** passed, title was approved, and the bill ordered transmitted to the House.

S 1245 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Sorensen arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Darrington, Kennedy. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1245** passed, title was approved, and the bill ordered transmitted to the House.

S 1246 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Marley arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Darrington, Kennedy. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1246** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, **S 1247** retained its place on the Third Reading Calendar.

S 1248 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Burkett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Darrington, Kennedy. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1248** passed, title was approved, and the bill ordered transmitted to the House.

S 1249 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bunderson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Darrington, Kennedy. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1249** passed, title was approved, and the bill ordered transmitted to the House.

S 1250 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Darrington, Kennedy. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1250** passed, title was approved, and the bill ordered transmitted to the House.

S 1251 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Sweet arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Darrington, Kennedy. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1251** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The President Pro Tempore declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **S 1234**, **S 1232**, **S 1279**, **H 500**, **S 1243**, and **S 1312**, without recommendation, amended as follows:

SENATE AMENDMENT TO S 1234

AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 43, delete "Upon a second conviction," and insert: "~~Upon a second conviction;~~ Any person who pleads guilty to or is found guilty of a violation of"; on page 2, in line 1, delete "under", and also in line 1, following "(3)" insert: "who previously has pled guilty to or been found guilty of a violation of this subsection (3)."; in line 3, delete "the person so con-" and in line 4, delete "victed" and insert: "~~the person so convicted~~ shall be guilty of a misdemeanor and"; in line 6, delete "Upon a third or subsequent con-" and in line 7, delete "viction under" and insert: "~~Upon a third or subsequent conviction~~ Any person who pleads guilty to or is found guilty of a violation of", and also in line 7, following "(3)" insert: "who previously has pled guilty to or been found guilty of two (2) violations of this subsection (3)."; in line 10, delete "the person so convicted" and insert: "~~the person so convicted~~"; and in line 21, following "who" insert: "previously".

CORRECTIONS TO TITLE

On page 1, delete line 4 and insert: "FOR PERSONS WHO PLEAD GUILTY TO OR HAVE BEEN FOUND GUILTY OF MISDEMEANOR DOMESTIC VIOLENCE WHO HAVE PREVIOUSLY PLED GUILTY TO OR BEEN FOUND GUILTY OF MISDEMEANOR DOMESTIC VIOLENCE OR SUB-"; and in line 7, following "WHO" insert: "PREVIOUSLY".

SENATE AMENDMENT TO S 1232

AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 11, following "person to" insert: "knowingly", and also in line 11, following "poison, or" insert: "knowingly"; and in line 13 delete "to release" and insert: "to knowingly release".

On page 1 of the printed bill, in line 17, following "section" insert: "when the value of the damage to either the species in production or the aquaculture facility itself is one thousand dollars (\$1,000) or less shall be guilty of a misdemeanor. Any person or persons violating any provisions of this section when the value of the damage to either the species in production or the aquaculture facility itself is in excess of one thousand dollars (\$1,000)".

SENATE AMENDMENT TO S 1279**AMENDMENT TO SECTION 1**

On page 2 of the printed bill, in line 17, following "transferable." insert: "Provided however, that persons licensed, registered or otherwise regulated by the state of Idaho to practice a profession shall not be required to obtain a license under this act in order to practice within the scope of practice of the profession for which they are licensed, registered or otherwise regulated."

CORRECTION TO TITLE

On page 1, in line 7, following "LICENSES," insert: "TO PROVIDE EXEMPTIONS TO SPECIFIED LICENSURE REQUIREMENTS,".

SENATE AMENDMENT TO H 500**AMENDMENTS TO SECTION 1**

On page 1 of the printed bill, in line 36, following "parties" insert: "required to be"; delete line 43; and on page 2, delete lines 1 and 2.

CORRECTIONS TO TITLE

On page 1, in line 4, delete "," and delete lines 5 and 6 and insert: "AND TO REVISE PROCEDURES.".

SENATE AMENDMENTS TO S 1243**AMENDMENTS TO SECTION 1**

On page 1 of the printed bill, in line 23 delete "that person" and insert: "a person"; on page 2, in line 9, delete "salacious or"; in line 11, delete "a person" and insert: "any other person"; delete lines 13 through 15 and insert: "device at a place where a person would have a reasonable expectation of privacy, without the knowledge or consent of the person using such place; or"; in line 16, delete "such" and insert: "any"; and delete lines 17 through 23 and insert: "images of the intimate areas of another person or persons without the consent of such other person or persons and with knowledge that such image or images were obtained with the intent set forth above.".

AMENDMENT TO SECTION 2

On page 2, in line 51, following "or" insert: "upon a second or subsequent conviction under".

SENATE AMENDMENTS TO S 1312**AMENDMENT TO SECTION 4**

On page 2 of the printed bill, delete lines 48 through 50.

AMENDMENT TO THE BILL

On page 2, following line 50, insert:

"SECTION 5. That Chapter 29, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-2913, Idaho Code, and to read as follows:

25-2913. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.".

CORRECTIONS TO TITLE

On page 1, in line 7, delete "AND"; in line 8, following "SPECIFIED" delete "," and insert: "AND", and also in line 8, delete "AND TO AUTHORIZE"; delete line 9, and insert: "; AND AMENDING CHAPTER 29, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2913, IDAHO CODE, TO PROVIDE FOR SEVERABILITY.".

The Committee also has **S 1262**, **S 1280**, and **S 1284** under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Stennett, the report was adopted by voice vote.

S 1234, as amended, **S 1232**, as amended, **S 1279**, as amended, **S 1243**, as amended, and **S 1312**, as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

H 500, as amended in the Senate, was filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:20 p.m. until the hour of 10:15 a.m., Friday, February 20, 2004.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary